

REMARKS

Favorable reconsideration of the subject application, in view of the amendments above and comments below, is respectfully requested.

Claims 1-16, 18-35 and 38-42 are pending in the present application. Claims 1-15, 21-24, 26-32 and 38 are canceled herein. Accordingly, claims 15-20, 25, 33-35 and 39-42 are presented for examination on the merits.

The pending claims have been amended to more particularly defined the claimed polypeptide and define the immune response elicited by the polypeptide as protective. These amendments are supported throughout the specification. Accordingly, no new matter is added by these amendments to the claims.

I. Rejection of Claims 16, 18, 25, 32-35 and 38-42 Under 35 U.S.C. § 112

It is respectfully submitted that the amendments to the claims render the rejection of claims 16, 18, 25, 32-35 and 38-42 under 35 U.S.C. § 112, second paragraph, moot.

II. Rejection of Claims 16, 18-20, 25, 32-35 and 38-42 Under 35 U.S.C. § 112

It is respectfully submitted that the amendments to the claims render the rejection of claims 16, 18-20, 25, 32-35 and 38-42 Under 35 U.S.C. § 112, first paragraph, moot.

III. Rejection of Claims 25, 34, 35, 40 and 42 Under 35 U.S.C. § 112

It is respectfully submitted that the amendments to the claims render the rejection of claims 25, 34, 35, 40 and 42 under 35 U.S.C. § 112, first paragraph, moot.

IV. Rejection of Claims 16, 18-20, 25, 32-35 and 38-42 Under 35 U.S.C. § 102(a)

It is respectfully submitted that the amendments to the claims render this ground of rejection moot. In particular, the claimed polypeptides elicit a protective immune response, wherein the polypeptides of the cited reference do not. Moreover, the claimed polypeptides have the amino acid sequence of SEQ ID NO. 2 or are at least 95% homologous thereto and the polypeptides of the cited reference are not full length, nor do they comprise at least 95% sequence identity with SEQ ID NO. 2. As such, the claimed invention is not anticipated by the cited prior art reference.

Accordingly, the rejection of the claims under 35 U.S.C. § 102(a) over Human Genome Sciences is respectfully traversed.

V. Objections to Claims 16, 28-20, 25, 32-35 and 38-42

It is respectfully submitted that each of the grounds for objection of the above-listed claims is rendered moot by the amendments to the claims. It is respectfully pointed out to the Examiner that SEQ ID NO. 2 includes both a N-terminal methionine residue and a secretory sequence. The amino acid and amino acids sequences are inherent properties of the polypeptide having SEQ ID NO. 2. Therefore, the dependent claims (34 and 35) have antecedent basis for the claimed limitation.

It is respectfully submitted that the present application is in condition for allowance, an early notification thereof being earnestly solicited. If any issues remain outstanding, the Examiner is respectfully requested to contact the undersigned attorney so that prosecution of this application may be expedited.

09/471,255

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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